

## **REMARKS**

Claims 111-170 are pending in the present application after entry of this Amendment. Claim 51-110 have been canceled without prejudice for the sole purpose of expediting prosecution with the right to pursue these claims in related applications. New claims 111-170 have been added.

It is respectfully submitted that new claims 111-170 are supported in the specification at, *inter alia*, page 1, lines 12-17 and 23-26; page 4, lines 17-22, and lines 30-34; page 5, lines 11-35; page 6, lines 13-18; page 7, lines 6-13; page 8, lines 13-35; page 9, lines 31-34; page 10, lines 11-34; page 11, line 35 through page 13, line 8; page 13, lines 26-30; page 14, lines 10-12; page 20, line 6-page 21, line 14; page 26, lines 25-30; page 27, lines 11-16; and originally filed claims 1-17. No new matter is added.

Reconsideration and allowance of the present application in view of the above amendments and following remarks are respectfully requested.

### **Claim Rejections**

Claims 51-53, 60-61, 64-65, 69-70, 76-77, 79-83, 90-91, 94-95, 99-100, 106-107 and 109-110 were rejected under 35 U.S.C. § 102(a) as being anticipated by United States Patent No. 5,464,650 to Berg et al. ("Berg"). Claims 54-59, 62-63, 66-68, 71-75, 78, 84-89, 92-93, 96-98, 101-105 and 108 were rejected under 35 U.S.C. § 103(a) as being obvious over Berg in view of United States Patent No. 5,288,711 to Mitchell et al. ("Mitchell"). In view of the cancellation of claim 51-110, these rejections are believed to be moot. It should be noted that while Applicants do not agree with these rejections, claims 51-110 have been canceled to facilitate prosecution.

### **New Claims**

New claims 111-170 are patentable over the references cited in the Office Action. More specifically, Berg fails to disclose or suggest a coating comprising (1) an undercoat comprising a polymeric material and a biologically active material, such as a drug, and (2) a topcoat overlying the undercoat that is free of an elutable material when the topcoat is applied to the undercoat. In fact, Berg teaches coatings that contain a polymer and a therapeutic substance throughout the coatings. Therefore, Berg teaches away from a coating

having a topcoat that is free of an elutable material when applied to an undercoat. Thus, Berg does not disclose or suggest the present invention.

With respect to the Examiner's reliance on U.S. Patent No. 5,492,895 to Vlasuk *et al.* ("Vlasuk"), this reference does not even disclose a stent and therefore does not disclose or suggest a stent having the coating recited in new claims 111-170.

Similarly, new claims 111-170 are patentable over Mitchell. In particular, Mitchell does not make any mention of a coating disposed upon a stent. Therefore, Mitchell does not teach or suggest a topcoat that is free of an elutable material when applied to an undercoat. Thus, since neither Mitchell nor Berg discloses a topcoat that is free of an elutable material when applied to an undercoat, these references whether taken singly or collectively, do not render the presently claimed invention unpatentable.

## CONCLUSION

All claims are believed to be in condition for allowance. If there are any remaining issues, the Examiner is invited to contact Applicants' representatives.

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Respectfully submitted,

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Enclosures